

Model WTO 2008

Committee on Agriculture



Chair paper

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A. Welcome

Dear Delegates,

We hereby warmly welcome you to the Model WTO 2008.

We – Joelle Goh and Nicolas Evans – will be chairing the Committee on Agriculture in this year's simulation. Allow us to briefly introduce ourselves

Joelle Goh



I am an exchange student from Singapore. Prior to coming to University of St.Gallen for my exchange programme, I was doing my MBA with the Nanyang Technological University in my home country.

The Model WTO will be exciting and I look forward to meeting all of you in this upcoming intellectually stimulating event.

Nicolas Evans



I am a German-born British citizen currently enrolled in my second semester of the *Master of International Affairs and Governance* at the University of St.Gallen, where I also completed my B.A.

The WTO with its unique procedures alongside the very complex and controversial field of agriculture gives all participants at the model an enticing opportunity to put negotiating skills to the test.

This year's topic for the Committee on Agriculture is: "*WTO Rules for Biofuel Policies: Tariffs, Tax Exemptions, Subsidies, Production Process Requirements*". Biofuels as ever-increasing and controversial alternative energy source are of significant current interest. The enormous growth this sector is experiencing therefore offers new challenges for international trade, which shall be at the heart of our Committee's work during the Model WTO.

We are looking forward to an exciting model WTO with fruitful negotiations and hopefully a new landmark for agreements on biofuels in agriculture!

If you have any questions or remarks concerning the Committee on Agriculture, do not hesitate to contact us at gkaixin@yahoo.com.sg (Joelle) or nicolas.evans@student.unisg.ch (Nicolas).

Yours Sincerely,

Joelle Goh & Nicolas Evans

B. Agriculture in the WTO

History of agriculture in the WTO

The original General Agreement on Tariffs and Trade (GATT) that applied to agricultural trade allowed countries to use some non-tariff measures such as import quotas and subsidies. As a result, agricultural trade became highly distorted, especially with the use of export subsidies which would not normally have been allowed for industrial products. It was not until the Uruguay Round Agreement on Agriculture (URAA) in 1994 that countries began to apply to agriculture the kinds of disciplines that have long governed trade in industrial products.

Agreement on agriculture

The first effort to unleash the gains from liberalised agricultural trade came in 1994, at the end of the Uruguay Round of the GATT. In signing the Uruguay Round Agreement on Agriculture, WTO Members established the first legally binding disciplines on agricultural trade protection since the GATT process began in 1947. The URAA's main achievements corresponded to the agreements' "three pillars". First was market access¹, where countries agreed to convert all non-tariff agricultural import barriers into tariffs (a process known as "tariffication") and to reduce tariffs over time. Second was export support², where Members agreed to reduce export subsidies. Third was a domestic support policy³, where Members agreed to categorise various types of support according to their degree of trade-distorting impacts and to gradually reduce the most distorting support.

The URAA also specified policies for "special and differential treatment" to address the particular needs of developing countries. These targeted policies arose because of fears that the transition to liberalised markets would threaten developing countries' economic well-being and food security, at least in the short term. The special and differential treatment provisions cut across the three pillars of market access, export support, and domestic support. They called for different timetables, different target reduction rates, and different exemptions. Least developed countries were largely exempt from reduction commitments altogether.

Agreement on agriculture and biofuels

Subsidisation can have multiple purposes and these purposes may vary in their consistency with the underlying norms of world trade law. Biofuels are not classified in a uniform fashion.

¹ http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm#tariffs

² http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm#exportsubsidies

³ http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm#domestic

The fact that biofuels are produced through the transformation of agricultural crops makes examining biofuels and trade regulations a rather complex undertaking.

The way in which a biofuel is classified is not only important as far as tariffs are concerned, but most importantly, it also determines which set of WTO disciplines on domestic subsidies are applicable. Whether a given biofuel falls within the Harmonised System (HS) classifications of the Agreement on Agriculture will determine if the rules of that Agreement apply in addition to those of the WTO Subsidies and Countervailing Measures (SCM) Agreement.⁴ The Agreement on Agriculture contains disciplines on subsidies that are in addition to those that apply to all products under the SCM Agreement.

The Agreement on Agriculture imposes disciplines on domestic subsidies provided to agricultural products, requiring their reduction over time at prescribed rates, with exceptions for certain defined categories of subsidies (including some environmental subsidies). During the first decade that the Agreement on Agriculture was in effect, where such exceptions applied, agricultural subsidies could not be challenged either under the SCM Agreement (the so-called “peace clause”), or the Agreement on Agriculture. Thus, during this period, a biofuel classified as an agricultural product under the HS meant it was subject to more lenient treatment under WTO rules than if it were classified as a non-agricultural product. With the expiration of the peace clause, it is believed that more challenges on agricultural subsidies will be forthcoming.

C. Biofuels

“Biofuels are defined as liquid and gaseous fuels produced from various forms of biomass and used to displace conventional petroleum fuels used for transport [...]. Bioethanol, biodiesel, biogas, dimethyl esters and synthetic fuels are included.”⁵

The two by far most frequent forms are bioethanol (that displaces regular petrol) and biodiesel (that displaces regular diesel). Bioethanol is mostly produced from sugar cane (as in Brazil), corn (as in the USA), sugar beet and wheat (as for instance in the EU and China) whereas biodiesel predominantly originates from rapeseed and sunflower.⁶

Paradoxically, the WTO treats these two forms of biofuels differently. Whereas bioethanol is considered to be an agricultural good, biodiesel is referred to as an industrial good.⁷ The implications of this distinction may need questioning.

⁴ http://www.wto.org/english/docs_e/legal_e/ursum_e.htm#bAgreement

⁵ Ölz, Sims & Kirchner (2007)

⁶ European Commission (2004)

⁷ Haverkamp & Parker (2007)

An important formal distinction within the category of biofuels is the division into first and second generation. First generation biofuels are those made from food crops, second generation those from “non-feedstocks such as agricultural and forestry waste”.⁸ All forms of biofuels can be produced on a second generation basis; ethanol for instance uses cellular non-food materials and biodiesel cooking oil or animal fats.⁹ The clear advantage with the latter is that there is no rivalry over inputs, since non-feedstock is currently waste.

For more detailed information on the nature and production process of biofuels, read the short (4 pages) but very conclusive IEA introduction (see recommended readings).

Biofuels in figures

World production of all types of biofuels was around 46bn litres in 2006 of which Ethanol accounted for roughly 42bn and biodiesel almost 4bn.¹⁰ The US overtook Brazil as the leading producer of bioethanol that year producing 21bn litres as opposed to the Latin American country’s 17.7bn. China and the EU follow with 1.5bn and less than 1bn litres of ethanol respectively.¹¹ The latter is however the leading producer of biodiesel with a market share of around 80%.¹²

Putting these figures into perspective: total petroleum consumption for transport (diesel and petrol) summed up to a staggering 2.4 trillion litres in 2006 meaning that biodiesel displaced about 0.3% of regular diesel consumption with ethanol taking a market share of 3% in volume or 2% on energy basis.¹³

Current state of affairs: biofuels in the WTO

Biofuels are of great potential interest for the WTO for several reasons. First of all this sector that has so far only been of marginal importance has exploded in the last few years and become significant both in terms of amounts and money as well as for global disciplines such as trade and the environment. Furthermore, biofuels offer an enormous potential for trade with potential producers and consumers being two different sets of players with “tropical and subtropical developing nations holding a comparative advantage due to their long or all year round growing seasons, large areas of available arable land and low labour costs”.¹⁴ The challenge emerging from this quickly growing new technology is, as always in like situations,

⁸ Shell (2007)

⁹ European Commission (2004)

¹⁰ Dogett (2007) and Ölç, Sims & Kirchner (2007)

¹¹ De La Hamaide (2007)

¹² Smith (2007)

¹³ Ölç, Sims & Kirchner (2007)

¹⁴ Haverkamp & Parker (2007)

whether to simply take over existing rules and apply them to biofuels or whether to refine them to suit the situation best.

The WTO currently has no specific agreements on biofuels, but the Agreement on Agriculture treats all inputs used to produce them. Annex 1 of the agreement lists all products that are subjected to it: chapters 1-24 of the Harmonised System (HS) include vegetable products (section II), animal and vegetable fats and oils (section III) as well as prepared foodstuffs (section IV) which can all be at the origin of biofuels or in the case of spirits (chapter 22) the biofuel (ethanol) itself¹⁵. This agreement therefore in effect subjugates agriculture to the general rules of the GATT. The specific implications are briefly covered below:

- Subsidies: subsidies can come in many different forms and shape – directly or indirectly, monetary or non-monetary. For the WTO, Article 3 of the Agreement on Agriculture binds the signatories to their commitments not to use certain types of subsidies, Article 6 deals with domestic support and the illicit use of subsidies in general and Article 8 explicitly forbids export subsidies (exceptions in Article 9).
- Tariffs: Article 4 states that members may make use of no other barriers to trade than tariffs aside the exceptions of Article 5 and Annex 5 enter into force (volumes and prices significantly diverging from the historical record of the past decades).
- Tax exemptions: tax exemptions to be understood as “freeing or release from some liability or requirement to which others are subject”¹⁶ fall under the more general notion of “domestic support” in Article 6 and Annex 2 Article 1a. They could be treated as a very specific form of subsidy.
- Production process requirements: Article 14 of the Agreement on Agriculture makes Sanitary and Phytosanitary Measures (SPS) valid for the agreement’s entire scope. The production of biofuels must therefore also be in accordance if they are treated as agricultural goods.
- Developing countries: as with the other GATT agreements there are special and differential treatments for developing (Article 15 Agreement on Agriculture) and least developed countries (Article 16) concerning agriculture and hence also biofuels.

¹⁵ World Customs Organisation (2007)

¹⁶ Merriam-Webster online (2008)

D. Issues for the agenda

The previous parts on agriculture in the WTO and biofuels in the Agreement on Agriculture have shown the current state of affairs and also pinpointed potential causes of friction as well as possible opportunities. In order to have orderly negotiations the delegations will agree on an agenda at the beginning of the session that will then be successively treated. The following points are some potential issues that have arisen in the field of biofuels in the past months and years that could require negotiations and agreements.

- Question of classification: should all biofuels be classified the same way? If so are they to be seen as industrial, agricultural or environmental good?
- What are the options for achieving a more uniform classification enabling trade liberalisation?
- How should subsidies to promote the production or consumption of biofuels be considered from the point of view of current or future WTO rules?
- Which production process requirements (standards, technical requirements) are in line with WTO rules? Are they sufficient reasons for technical barriers to trade?
- Can trade in biofuels be an opportunity to make their production more efficient on a global scale?

E. Preparation guide

This Chair paper is meant to give you a thorough introduction to the topic of agriculture and more specifically biofuels in the WTO. However, it is indispensable for each delegation to further prepare the simulation by gathering its country's commitments and position concerning the subject at hand.

The main aims of your preparation should therefore be the following:

1. Prepare the topic of agriculture and biofuels by reading this Chair paper and the recommended readings or equivalents
2. Take a close look at the Agreement on Agriculture
3. Find your countries commitments (bound tariffs, ratifications of treaties) and its general trade policy on biofuels.
4. Anticipate your negotiations objectives based on the previous information.

Recommended Readings

Agriculture in the WTO:

WTO's Agreement on Agriculture. Available online:

http://www.wto.org/english/docs_e/legal_e/14-ag.pdf

WTO Statistics on trade in fuels and agriculture (p.37-38). Available online at:

http://www.wto.org/english/res_e/statis_e/its2007_e/its07_merch_trade_product_e.pdf

Hoekman, B. & Kostecki, M. (2001). *The Political Economy of the World Trading System (Second edition)*. Oxford: Oxford University Press. Chapter 6.1. P.208-226

Introduction to biofuels:

Commission of the European Communities (2006). *An EU Strategy for Biofuels*. Available online: http://ec.europa.eu/agriculture/biomass/biofuel/com2006_34_en.pdf

Energy Sector Management Assistance Program (2007). Available online:

http://siteresources.worldbank.org/INTOGMC/Resources/Considering_trade_policies_for_liquid_biofuels.pdf

Haverkamp, J. & Parker, L. (2007). *Governments must act to boost trade in biofuels*.

Bioenergy Business. Available online: <http://www.bioenergy-business.com/index.cfm?section=features&action=view&id=10786>

International Energy Agency (2007). *Biofuel production*. Available online:

<http://www.iea.org/Textbase/techno/essentials2.pdf>

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De La Hamaide, S. (2007). Biofuels to buoy farm prices in next decade: OECD/FAO. Paris: Reuters. Found online 10.03.2008 at URL: <http://www.reuters.com/article/environmentNews/idUSL0484629820070704?sp=true>

Doggett, T. (2007) *U.S. sees renewable energy use doubling by 2030*. Found online on 28.02.2008 at URL: <http://www.reuters.com/article/environmentNews/idUSN1261472120071212?pageNumber=1&virtualBrandChannel=0>

Haverkamp, J. & Parker, L. (2007). *Governments must act to boost trade in biofuels*. Bioenergy Business. Found online on 13.03.2008 at URL: <http://www.bioenergy-business.com/index.cfm?section=features&action=view&id=10786>

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Ölz, S., Sims, R. und Kirchner, N. (2007). *Contributions for Renewables to Energy Security*. Paris: International Energy Agency.

Reuters (2007). *Factbox: Brazil, world's most efficient ethanol producer*. Reuters. Found online on 14.03.2008 at URL:
<http://www.reuters.com/article/gc07/idUSN019723820070601>

Shell (2007). *Biofuels*. Found online on the 12.02.2008 at URL:
http://www.shell.com/home/content/aboutshell-en/what_we_do/refining_selling/fuels/biofuels.html

Smith, J. (2007). EU biofuel target draw imports, food crops safe. Paris: Reuters. Found online on the 22.03.2008 at URL:
<http://www.reuters.com/article/GlobalBiofuel07/idUSL1863894920070118>

World Customs Organisation (2007). *HS Nomenclature*. Found online on 21.03.2008 at URL:
http://www.wcoomd.org/home_wco_topics_hsoverviewboxes_hsconvention_hsnomenclaturetable2007.htm

Annex: Procedural Rules of the Model WTO

Chapter I - Representation

Rule 1:

A country delegation consists of exactly one Head Delegate and one Committee Delegate in each of the six committees.

Rule 2:

If for any reason a country is not able to appoint a Delegate for a given committee, the Head Delegate can be appointed to act in place of the Committee Delegate. In this case, the Committee's chairpersons are asked not to let voting on substantive issues take place without prior consent of the Head Delegate.

Chapter II - Languages

Rule 3:

English shall be the working language.

Chapter III - Agenda

Rule 4:

A list of the items proposed for the agenda of the meeting shall be communicated to all participants. It shall be open to any delegate to suggest items for inclusion in the proposed agenda up to two weeks before the meeting. Suggestions shall be mailed directly to the chairpersons, together with the accompanying documentation to be issued in connection with that item.

Rule 5:

The first item of business at each meeting shall be the consideration and approval of the agenda. Representatives may suggest amendments to the proposed agenda.

Rule 6:

The Committee may amend the agenda or give priority to certain items at any time in the course of the meeting.

Chapter IV - Conduct of business

Rule 7:

The Chairpersons shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, submit questions for decision, announce decisions, rule on points of order and, subject to these rules, have complete control of the proceedings. The Chairpersons may also call a speaker to order if the remarks of the speaker are not relevant.

Rule 8:

During the discussion of any matter, a representative may raise a point of order. In this case the Chairperson shall immediately state the ruling. If the ruling is challenged, the Chairperson shall immediately submit it for decision and it shall stand unless overruled.

Rule 9:

During the discussion of any matter, a representative may move the adjournment of the debate. Any such motion shall have priority. In addition to the proponent of the motion, one representative may be allowed to speak in favour of, and two representatives against, the motion, after which the motion shall be submitted for decision immediately.

Rule 10:

A representative may at any time move the closure of the debate. In addition to the proponent of the motion, not more than one representative may be granted permission to speak in favour of the motion and not more than two representatives may be granted permission to speak against the motion, after which the motion shall be submitted for decision immediately.

Rule 11:

During the course of the debate, the Chairperson may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Chairperson may, however, accord the right of reply to any representative if a speech delivered after the list has been declared closed makes this desirable.

Rule 12:

The Chairperson, with the consent of the meeting, may limit the time allowed to each speaker.

Rule 13:

Representatives shall endeavour, to the extent that a situation permits, to keep their oral statements brief. Representatives wishing to develop their position on a particular matter in fuller detail may circulate a written statement for distribution to all delegates, the summary of which, at the representative's request, may be reflected in the records of the Committee.

Rule 14:

In order to expedite the conduct of business, the Chairpersons may invite representatives that wish to express their support for a given proposal to show their hands, in order to be duly recorded in the records of the Committee as supporting statements; thus, only representatives with dissenting views or wishing to make explicit points or proposals would actually be invited to make a statement. This procedure shall only be applied in order to avoid undue repetition of points already made, and will not preclude any representative who so wishes from taking the floor.

Rule 15:

If two or more proposals are moved relating to the same question, the meeting shall first decide on the most far-reaching proposal and then on the next most far-reaching proposal and so on.

Rule 16:

When an amendment is moved to a proposal, the amendment shall be submitted for decision first and, if it is adopted, the amended proposal shall then be submitted for decision.

Rule 17:

When two or more amendments are moved to a proposal, the meeting shall decide first on the amendment farthest removed in substance from the original proposal, then, if necessary, on the amendment next farthest removed, and so on until all the amendments have been submitted for decision.

Rule 18:

Parts of a proposal may be decided on separately if a representative requests that the proposal be divided.

Chapter V - Decision-Making

Rule 19:

Where a decision can be arrived at by consensus, the matter at issue shall be included in the Final Declaration.

Chapter VI - Records

Rule 20:

Records of the discussions of the Committee shall be in the form of minutes. These minutes shall be made available to all countries' Head Delegates.